

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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ALBERT RAINES, )  
Petitioner, )  
 )  
v. ) Civil Action No. 05-10592-EFH  
 )  
COMMONWEALTH OF )  
MASSACHUSETTS, )  
Respondent. )  
 )

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**MOTION TO DISMISS**

Respondent, the Commonwealth of Massachusetts, moves that this petition for writ of habeas corpus be dismissed pursuant to Rules 12(b)(1) and 12(b)(6), because petitioner has failed to exhaust the procedures available to him in state court to pursue the claims he raises here, because federal courts must generally abstain from interfering in ongoing state criminal proceedings, and because the claims in the petition rest on state, not federal, law.

For these reasons, and for the reasons set forth in the accompanying memorandum of law, respondent respectfully requests that this petition be dismissed.

Respectfully submitted,

THOMAS F. REILLY  
ATTORNEY GENERAL

/s/ David M. Lieber

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